

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
Filed: November 19, 2019

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RAFAEL D. LEAL, * No. 17-1513V

Petitioner, * Special Master Sanders

v. *

SECRETARY OF HEALTH * Stipulation; Dismissal; Influenza (“Flu”)
AND HUMAN SERVICES, * Vaccine; Tetanus, Diphtheria, and
* Pertussis (“Tdap”) Vaccine; SIRVA

Respondent. *

* * * * *

ORDER CONCLUDING PROCEEDINGS¹

On October 13, 2017, Rafael D. Leal (“Petitioner”) filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-10 to -34 (2012). Petitioner received a flu vaccination in his left arm and a Tdap vaccination in his right arm on February 29, 2016. Pet’r’s Ex. 4 at 4, ECF No. 22. Petitioner alleged that he developed a shoulder injury related to vaccine administration (“SIRVA”) in his left arm caused by the flu vaccine and in his right arm caused by the Tdap vaccine. *See* Pet. at 1, ECF No. 1. Petitioner further alleged that he experienced the residual effects of his injury for more than six months. *Id.*

On November 1, 2019, the parties filed a joint stipulation in which they state that this action should be dismissed. Stip. at 2. Prior to filing the stipulation, Petitioner notified his counsel that he wished to withdraw from the Program and that he does not wish to pursue a separate legal action. *Id.* The parties then agreed to dismiss this action pursuant to Vaccine Rule 21(a). *Id.*

Accordingly, pursuant to Vaccine Rule 21(a) the above-captioned case is hereby dismissed

¹ This decision shall be posted on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). **This means the Decision will be available to anyone with access to the Internet.** As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b).

² National Childhood Vaccine Injury Act of 1986, Pub L. No. 99-660, 100 Stat. 3755.

without prejudice. The Clerk of Court is hereby instructed that a judgment shall not enter in the instant case pursuant to Vaccine Rule 21(a).

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

RAFAEL D. LEAL,)
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)
)
Petitioner,)) No. 1:17-vv- 01513-UNJ
)) Special Master Herbrina Sanders
v.)
)
)
SECRETARY OF HEALTH)
AND HUMAN SERVICES,)
)
)
Respondent.)
)
_____)

JOINT STIPULATION OF DISMISSAL

It is hereby stipulated by and between the parties, the following matters:

1. On October 13, 2017, Petitioner filed a Petition for Vaccine Compensation.
2. Petitioner notified his counsel that he wished to withdraw from the Program and confirmed that he does not wish to pursue a separate legal action.
3. The parties hereby stipulate pursuant to Vaccine Rule 21(a) that this action shall be dismissed.

Respectfully submitted, this 1st day of November, 2019.

/s/Nancy R. Meyers
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